

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

CHARLES M. MCCARTHY JR.,)
)
Plaintiff(s),)
)
v.)
)
JO ANNE B. BARNHART,)
Commissioner of Social)
Security Administration,)
)
Defendant(s).)
)
)

No. C05-4834 BZ

**ORDER GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S
MOTION FOR SERVICE**

Before me is plaintiff Charles McCarthy's motion for service of defendant's answer and the administrative record.¹ Plaintiff's counsel avers that he has not received in the mail a copy of the answer or the administrative record. A hearing was held on September 6, 2006. Neither plaintiff nor his counsel appeared. The court granted leave for the parties to file supplemental papers and continued the hearing to October

¹ This is an e-filing case. Plaintiff received notice from the Clerk's office on March 17, 2006 of his obligation to e-file documents. Plaintiff belatedly e-filed his motion for service but has since failed to properly file papers and other motions relating to the case.

1 4, 2006. Plaintiff again failed to appear though counsel. No
2 request by plaintiff's counsel to appear by telephone was
3 received by this court. In addition, plaintiff's counsel has
4 failed or refused to communicate with defense counsel and has
5 failed to properly file motions and other papers with this
6 Court.

7 **IT IS ORDERED** that plaintiff's motion for service as to
8 defendant's answer is **DENIED**. Defendant has filed her answer
9 electronically and, pursuant to General Order No. 45, it has
10 been served.

11 **IT IS FURTHER ORDERED** as follows:

- 12 1. Plaintiff's motion for service of the administrative
13 record in this matter is **GRANTED** on the condition
14 that if plaintiff wants defendant to recopy the
15 record, plaintiff's counsel, Mr. Reyer, shall pay
16 for copying costs incurred by the defendant, those
17 costs not to exceed 10¢ per page. My shifting of
18 these costs to plaintiff's counsel is, in part, a
19 sanction imposed pursuant to Fed. R. Civ. P. 16(f)
20 and my inherent power to control this proceeding.
- 21 2. By letter or other appropriate communication
22 defendant will, by no later than **October 6, 2006**,
23 apprise Mr. Reyer of the cost of copying the
24 administrative record.
- 25 3. By letter or other appropriate communication Mr.
26 Reyer will, by no later than **October 13, 2006**,
27 apprise the defendant whether he wishes the record
28 recopied and, if so, enclose a check for the cost of

1 copying.

2 4. Plaintiff shall file his motion for summary judgment
3 by December 1, 2006.

4 5. Plaintiff will from this day forward make all
5 required appearances unless excused by the court,
6 and abide by all court orders, Local Rules and
7 General Orders, in particular, General Order No. 45
8 (Electronic Case Filing) and General Order No. 53
9 (Privacy). Failure to do so may result in further
10 sanctions.

11 Dated: October 4, 2006

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